

§ 401.312 Confidentiality of information.

A PAE and every other restricted person (as defined in § 401.310) has a duty to protect confidential information and to prevent its use to further a private interest other than as contemplated by the PRA. As used in this section, confidential information means information that a PAE or other restricted person obtains from or on behalf of HUD or a third party in connection with a PRA but does not include information generally available to the public unless the information becomes available to the public as a result of unauthorized disclosure by the PAE or another restricted person.

§ 401.313 Consequences of PAE violations; finality of determination.

(a) *Effect on PRA.* If a PAE, potential PAE or other restricted person (as defined in § 401.310) violates §§ 401.310, 401.311, or 401.312, HUD may:

(1) Find the PAE unqualified to enter into a PRA, or unqualified to receive additional projects for restructuring under an existing PRA;

(2) Find the PAE in default under an existing PRA with the right of termination for cause under § 401.309; or

(3) Seek its actual, direct, and consequential damages from a PAE whose conflicts of interest, failure to comply with confidentiality requirements, or failure to comply with the minimum ethical standards for PAEs that were the basis for termination of a PRA.

(b) *Cumulative remedies.* The remedies under this section are cumulative and in addition to any other remedies or rights HUD may have under the terms of the PRA, at law, or otherwise.

(c) *Finality of determination.* Any determination made by HUD pursuant to this section is at HUD's sole discretion and is not subject to further administrative review.

§ 401.314 Environmental review responsibilities.

HUD will retain all responsibility for environmental review under part 50 of this title. Any required review will be completed before any HUD execution of the Restructuring Commitment under § 401.405.

Subpart C—Restructuring Plan**§ 401.400 Required elements of a Restructuring Plan.**

(a) *General.* A PAE is responsible for the development of a Restructuring Plan for each project included in its PRA.

(b) *Required elements.* The Restructuring Plan must contain a narrative that fully describes the restructure transaction. The Restructuring Plan must include the elements required at section 514(e) of MAHRA. The Restructuring Plan must describe the use of any restructuring tools listed at section 517(a) and (b) of MAHRA, and must contain other requirements as determined by HUD.

[63 FR 48943, Sept. 11, 1998; 63 FR 71373, Dec. 28, 1998]

§ 401.401 Consolidated Plans.

A PAE may request HUD to approve a Consolidated Restructuring Plan that presents an overall strategy for more than one project included in the PRA. HUD will consider approval of a Consolidated Restructuring Plan for projects having common ownership, geographic proximity, common mortgagee or servicer, or other factors that contribute to more efficient use of the PAE's resources. Notwithstanding the more efficient use of a PAE's resources, HUD will not approve any Consolidated Restructuring Plans that have a detrimental effect on tenants or the community, or a higher cost to the Federal government.

§ 401.402 Cooperation with owner and qualified mortgagee in Restructuring Plan development.

A PAE must comply with section 514(a)(2) of MAHRA by using its best efforts to seek the cooperation of the owner and qualified mortgagee or its designee in the development of the Restructuring Plan. If the owner fails to cooperate to the satisfaction of the PAE and HUD agrees, the PAE must notify the owner that the PAE will not develop a Restructuring Plan. This notice will be a final decision subject to dispute and administrative appeal under subpart F of this part. If the qualified mortgagee does not cooperate in modifying the mortgage, the PAE